

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

RJF CHIROPRACTIC CENTER, INC., an)
Ohio corporation, individually and as the)
representative of a class of similarly-situated)
persons,)
v.) Civil Action No.: 3:16-cv-00842
Plaintiff,)
Defendants.)
BSN MEDICAL, INC. and JOHN DOES 1-)
10,)
v.)
Defendants.)

**CERTIFICATION AND REPORT OF F.R.C.P. 26(f) CONFERENCE
AND DISCOVERY PLAN**

1. Certification of Conference. Pursuant to Fed. R. Civ. P. 26(f), a meeting was held on February 7, 2017 by telephone and was conducted by the undersigned counsel for the designated parties in the above captioned case.

2. Pre-Discovery Disclosures. The information required by Fed. R. Civ. P. 26(a)(1) will be exchanged by March 7, 2017.

3. Discovery Plan. The parties jointly propose to the court the following plan:

- a) All discovery shall be commenced in time to be completed by February 9, 2018.
- b) Discovery Limits:
 - 1) Maximum of 20 interrogatories by each party to any other party
 - 2) Maximum of 20 requests for admission to each party to any other party
 - 3) Maximum of 6 depositions by plaintiff and 6 by defendant
- c) Reports from retained experts under Rule 26(a)(2) will be due:
 - From plaintiff by November 10, 2017.
 - From defendant by December 22, 2017*
 - Supplementation under Rule 26(e) due January 15, 2018*

*Due to the Parties' proposal to engage in discovery designed to determine whether the case is certifiable as a class action or not, before expending potentially unnecessary time and judicial resources, the Parties

wish to reserve the right to designate additional expert(s) in the event a Second Case Management Order becomes necessary.

4. Other Items.

a) The parties request / X do not request a conference with the court before entry of the scheduling order.

b) All potentially dispositive motions should be filed by:

To be determined by a Second Case Management Conference after ruling on Plaintiff's Motion for Class Certification.

c) Settlement:

Settlement is unlikely at this time.

The parties agree that a Mediated or Judicial Settlement Conference would be most useful after all discovery has closed.

d) Final lists of witnesses and exhibits under Rule 26(a)(3) are due:

From plaintiff – To be determined at a Second Case Management Conference after ruling on Plaintiff's Motion for Class Certification.

From defendant – To be determined at a Second Case Management Conference after ruling on Plaintiff's Motion for Class Certification.

e) If the case is ultimately tried, trial is expected to take approximately 5 days.

f) The parties have discussed the issue of consent to the jurisdiction of a U.S. Magistrate Judge.

5. Please identify any other matters regarding discovery or case management which may require the Court's attention (e.g., concerns re: confidentiality, protective orders, etc., unmovable scheduling conflicts):

Plaintiff: Plaintiff has filed a putative class action alleging Defendant violated the Telephone Consumer Protection Act ("TCPA") by sending advertisements by fax. Plaintiff seeks to file its Rule 23 Motion for Class Certification by March 9, 2018. After ruling on Plaintiff's Motion for Class Certification, Plaintiff requests a second Scheduling Conference to set deadlines for notice to the class, dispositive motions, and trial.

Defendant:

s/Chad McGowan
Chad McGowan (Fed. ID#6620,
NC 28211)
McGOWAN HOOD FELDER
1517 Hampton St.
Columbia, SC 29201
Telephone: 803-779-0100
Fax: 803-256-0702
cmcgowan@mcgowanhood.com

Brian J. Wanca (pro hac vice)
Ryan M. Kelly (pro hac vice)
ANDERSON + WANCA
3701 Algonquin Rd., Suite 500
Rolling Meadows, IL 60008
Telephone: 847-368-1500
Fax: 847-368-1501
bwanca@andersonwanca.com
rkelly@andersonwanca.com

Attorneys for Plaintiff

Respectfully submitted,

s/Hunter C. Quick
Hunter C. Quick #16453
Peter A. Santos #32040
H. Lee Falls, III #36183
NEXSEN PRUET
227 West Trade Street, Ste. 1550
Charlotte, NC 28202

David A. Yudelson (pro hac vice)
Koley Jessen P.C., L.L.O.
1125 S. 103rd St., Suite 800
Omaha, NE 68124
Telephone: 402-343-3800
Fax: 402-390-9005
david.yudelson@koleyjessen.com

Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on February 14, 2017, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all attorneys of record.

s/ Chad McGowan